

29 JAN 2007



United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

In re Application of	:	
Lambris	:	DECISION
Application No.: 10/528,496	:	
PCT No.: PCT/US03/29653	:	
Int. Filing Date: 22 September 2003	:	ON
Priority Date: 20 September 2002	:	
Attorney Docket No.: UPN-4470/P2942	:	
For: Compstatin Analogs With Improved Activity	:	PETITION

This is in response to the petition under 37 CFR 1.181 filed on 16 January 2007.

BACKGROUND

International application PCT/US03/29653 was filed on 22 September 2003, claimed an earliest priority date of 20 September 2002, and designated the United States. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 March 2005 (since 20 March 2005 was a Sunday). Applicant filed *inter alia* the basic national fee on 18 March 2005.

On 23 September 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 22 December 2005, applicant filed *inter alia* a declaration and the surcharge under 37 CFR 1.492(h).

On 03 April 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be 22 December 2005.

On 05 July 2006, a Withdrawal of Previously Sent Notice and a Notification to Comply With Requirements... (Form PCT/DO/EO/922) were mailed to applicant, indicating that the "Notice mailed on 04/03/2006 was sent in error and is hereby withdrawn," and requiring the submission of an initial computer readable form (CRF) of the sequence listing, an amendment specifically directing its entry into the specification, and a statement that the content of the CRF is identical to that of the written sequence listing and, where applicable, includes no new matter.

On 24 November 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Form PCT/DO/EO/922 mailed on 05 July 2006.

On 04 December 2006, applicant filed a response including a sequence listing in paper form, a floppy disk represented to include a CRF, an amendment directing entry of the sequence listing into the specification, and a statement that "the submission includes no new matter." Also filed was a petition and fee for a one-month extension of time under 37 CFR 1.136(a).

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment on the basis that "the application is not in fact abandoned" in view of the correspondence filed on 04 December 2006. Review of the record reveals that the Form PCT/DO/EO/922 mailed on 05 July 2006 set a TWO MONTH period for response, extendable under 37 CFR 1.136(a). Thus, the maximum extended period for response would expire on 06 February 2007 (since 05 February 2007 will be a Sunday). As such, the mailing of the Notification of Abandonment on 24 November 2006 was premature, and it is hereby **VACATED**.

It is noted that the CRF filed on 04 December 2006 has not yet been analyzed for technical adequacy.

DECISION

The petition to withdraw the holding of abandonment is **GRANTED** as discussed *supra*.

This application is being returned to the National Stage Processing Branch for further processing.



George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459